

JAN 27 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HECTOR HERNANDEZ,

Defendant - Appellant.

No. 05-16384

D.C. Nos. CV-05-00410-WBS
CR-01-00358-WBSMEMORANDUM^{*}Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, Chief Judge, PresidingSubmitted January 23, 2006^{**}

Before: T.G. NELSON, SILVERMAN and BYBEE, Circuit Judges.

A review of the record and the opening brief indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard); *United States v. Cruz*, 423 F.3d 1119 (9th Cir. 2005).

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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Accordingly, Appellee's motion for summary affirmance is granted.

AFFIRMED.